

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION

**DEVIN GRANDIS, and ADVANCED  
POWER TECHNOLOGIES, LLC**

**Plaintiffs,**

v.

**BGIS GLOBAL INTEGRATED  
SOLUTIONS US LLC, and BIFM JERSEY  
TOPCO LIMITED**

**Defendants.**

CASE NO. 22-CV-61477-AHS

JUDGE RAAG SINGHAL

**DEFENDANT BGIS GLOBAL INTEGRATED SOLUTIONS US LLC’S MOTION FOR  
LEAVE TO FILE SURREPLY IN OPPOSITION TO PLAINTIFFS’ MOTION TO  
ENFORCE SETTLEMENT AGREEMENT AND FOR EXTENSION OF TIME  
INSTANTER AND INCORPORATED MEMORANDUM OF LAW**

Pursuant to Local Rule 7.1(c)(1), Defendant BGIS Global Integrated Solutions US LLC (“BGIS”) respectfully requests this Court grant it leave to file a surreply to correct materially false statements Plaintiffs’ Reply.<sup>1</sup> Plaintiffs’ Reply is entirely premised on a knowing factual misrepresentation as to the timing of critical events.

Courts have found that surreplies are permitted where there is a “valid reason” or “exceptional circumstance” to justify additional briefing. *HNA LH OD, LLC v. Loc. House Int’l, Inc.*, No. 21-CV-21022, 2021 WL 2400210, at \*1 (S.D. Fla. June 11, 2021). “A district court’s decision to permit the filing of a sur-reply is purely discretionary and should generally only be allowed when a valid reason for such additional briefing exists, such as where the movant raises

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<sup>1</sup> “Reply” refers to Plaintiffs’ Reply to Defendants’ Response in Opposition to Motion to Enforce Settlement Agreement and for Extension of Time. [Dkt. No. 55.]

new arguments in its reply brief.” *First Specialty Ins. Corp. v. 633 Partners, Ltd.*, 300 F. App’x 777, 788 (11th Cir. 2008). Courts have also found surreplies are warranted to address factual and legal misstatements included in a party’s reply brief. *St. James Ent. LLC v. Dash Crofts*, No. 1:09-CV-1975-RWS, 2010 WL 2802616, at \*1 (N.D. Ga. July 13, 2010).

On April 27, 2023, BGIS’s counsel informed Plaintiffs’ counsel of the material misrepresentation and requested that Plaintiffs “correct the false statement” to the Court. *See* Email Chain at 4/27/23 Pascoe Email, attached hereto as Exhibit A. Plaintiffs’ counsel responded that he would not correct the misrepresentation, but “we will let the [C]ourt decide.” *Id.* at 4/28/23 Haft email. Plaintiffs have therefore left BGIS no option other than to seek leave to file a very brief surreply to correct the knowing material misrepresentation by Plaintiffs.

For these reasons, the Court should permit BGIS to file a surreply to address the factual misrepresentations in Plaintiffs’ Reply. A copy of BGIS’s proposed surreply is attached and incorporated herein as Exhibit B.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on 1<sup>st</sup> day of May, 2023, a true and correct copy of the foregoing DEFENDANT BGIS GLOBAL INTEGRATED SOLUTIONS US LLC'S MOTION FOR LEAVE TO FILE SURREPLY IN OPPOSITION TO PLAINTIFFS' MOTION TO ENFORCE SETTLEMENT AGREEMENT AND FOR EXTENSION OF TIME *INSTANTER* AND INCORPORATED MEMORANDUM OF LAW was filed via the CM/ECF system, which will serve a true and correct copy of the same to all attorneys of record.

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